

Minutes of the Lobbying Advisory Task Force meeting
March 5, 2015
Senate Lounge

The meeting was called to order by Secretary of State Nellie Gorbea at 10:10 a.m. Members in attendance are as follows:

Nellie Gorbea, RI Secretary of State
Wally Gernt, President, RI Lobbyist Association, The Bradford Group
Maureen Martin, RI Federation of Teachers
Carolyn Murray, Lobbyist, F/S Capitol Consulting
Greg Mancini, Build RI
Amy Goins, Common Cause RI
Hilary Davis, ACLU
Paola Fernandez, United Way of RI
Melissa Darigan, President-elect, RI Bar Association
Jason Gramitt, RI Ethics Commission

Also present: Robert Corrente, Legal Counsel to the Secretary of State and Richard Sahagian, Legal Counsel to the Senate President.

Secretary Gorbea asked the members to introduce themselves and state why they are participating in the task force. She mentioned that the group represents a wide variety of people concerned with the lobbying laws in Rhode Island

Wally Gernt said the association is interested in making the lobbying laws and regulations easier to understand and comply with as well as ensuring transparency.

Maureen Martin has similar interests to Wally. It is important to simplify and be more transparent, and for the laws to catch up with technology. Currently, the rules do not match the technology.

Carolyn Murray mentioned that in addition to transparency, consistency is important as well. The laws and regulations have not been revised to address changes in technology.

Greg Mancini talked about the importance of transparency as well as First amendment protections.

Amy Goins would like the lobbying laws to be easy to understand and enforceable.

Hilary Davis stated that the ACLU is interested in ensuring that we do not inadvertently burden smaller non-profits and community agencies who need to reach their officials.

Paola Fernandez. The United Way of RI oversees funding for many non-profits. The organization wants to ensure that non-profits understand the advocacy process and continue to be engaged.

Melissa Darigan mentioned that transparency, accountability and clarification of the laws and regulations are a top priority.

Jason Grammit said that lobbyists and lobbying clients have a statutory filing function. He believes that transparency is one of the most important issues. If those that are lobbying understand the rules they will be better able to comply.

Secretary Gorbea outlined her goals for the process. She would like to establish a long-term culture of integrity. She hopes that this forum provides an opportunity to listen, and for us to learn from each other and achieve the goal to clarify, strengthen and ensure the transparency of our state's lobbying laws.

Three areas summarize what needs to happen with these statutes.

First, we have the opportunity to work on clarifying. For example, we have two statutes, executive and legislative. Secretary Gorbea proposed that we strike both existing statutes and create a new lobbying statute. She welcomed other ideas and comments from the group as to how to clarify the existing legal structure.

There was discussion regarding some ambiguities in the laws and thoughts on how this could be clarified. The law is not entirely clear on what triggers the need to register, or who needs to register. Is compensation a trigger? What about cases where an employee testifies about an area of expertise? For example, a hospital CEO who occasionally comes to testify is compensated by the hospital; he's not necessarily lobbying for his organization but he is testifying as an expert on public policy.

In addition, as the Secretary mentioned there may be an opportunity to clarify the statutes by creating one lobbying statute. A question was asked of whether there is an advantage to having lobbyists designate that they are only executive or legislative lobbyists.

Another example is teachers and experts on education to testify about education or collective bargaining. Organizations have a difficult time understanding if certain persons need to be registered as a lobbyist. For instance, is there a difference between a union member teacher and the president of the Local?

Discussion also focused on providing clarification around the exemption for attorneys in the executive lobbying statute, there seems to be a distinction in the law that is not clear. It was mentioned that this language was to address judicial proceedings. Not every lobbyist is a lawyer but there should be clarity as to when a lawyer is required to register.

The task force talked about the need for clear definitions, however there will always be some gray areas. If you happen to be a lawyer who is interested in an issue that is being discussed in a hearing and you call a member who is in that hearing is that lobbying?

The RI Supreme Court has an ethics advisory panel, a five-member panel appointed by the Chief Justice; it meets on a monthly basis to accept submissions from lawyers who are having definitional problems related to ethics questions. The panel prepares a written response to questions, if you were unclear as to what to do, you would send to the panel and it would issue an opinion. They would effectively offer recommendations on how to proceed and if you follow the advice you could not get into trouble later even if the panel was incorrect in their response. A similar structure could be explored for this issue. This is a good idea however lobbying issues are time sensitive so it would need to be responsive to those time demands.

Another suggestion was to develop a plain language guide that is easy to read and understand.

Secretary Gorbea mentioned the need for education. Once we figure out the new statute we need to create a culture of integrity through clarity and education. There was a question as to when a person registers for the first time, are they required to undergo education. The answer is no, education is not required.

In the non-profit community, there is a need to consider constituents and volunteers vs. employees of a non-profit organization. When people are asked to come and testify, organizations guide them but there is often confusion, there are limitations but they can do advocacy work. There needs to be some clarity in the instructions for people who are not being compensated, no need to go through the registration process and pay a fee.

What about things like pizza expense reimbursement, parking ticket repayment for people who come to testify? That might trigger the lobbying law.

There is confusion about reporting accuracy as well. Where a consultant is paid \$100 to lobby in addition to other work, but spends 50 percent of his or her time lobbying, what should the consultant report?

Secretary Gorbea asked about the number of badges, can there just be one lobbying badge that provides information that we can look up in the system. It is one of those examples where our paper based system has not caught up with technology. There was discussion of the need to wear a badge and possibly connecting the legislative hearing sign-in process with the Secretary of State's office.

Secretary Gorbea moved the conversation to strengthening the statute. She believes stronger laws will discourage bad behavior and penalize those who willfully break the law.

The Secretary asked Bob Corrente to offer suggestions and then opened the floor to discussion.

Bob Corrente outlined the issues with the definitions in the statute as well as the lack of a strong enforcement mechanism to address issues of non-compliance. He mentioned three areas to enhance the enforcement process: First is to provide subpoena power. The second area is to provide the same kind of procedural clarity as seen in the federal Administrative Procedures Act. The third issue is to increase the penalties for non-compliance.

There was discussion on a hearing process and reference to the Department of Business Regulation and the Department of Environmental Management that has good hearing processes to model.

Discussion also centered on distinguishing between violations that are intentional and willful. If there are larger penalties there should be a tier system that is proportional to the violation.

The group talked about what issues can be addressed through regulations as opposed to those that needed to be included in statute.

Secretary Gorbea talked about the importance of transparency as an economic development issue. People do not want to invest in a place where they do not trust there is an open government.

The idea of reporting specific bill numbers was raised. There was a lot of discussion as to the administrative challenges of reporting on individual bills. It was felt there is a duplication of efforts as lobbyists testify on bills in the legislature however those records do not interact with the Secretary of State's office. Also, it was mentioned about bills that lobbyists discuss briefly and would those need to be reported. Another comment was made that it would be useful to look up a bill to see if it passed and see who was in favor or against.

The issue was raised of having a certification that a person is a lobbyist on email or written correspondence when lobbying public officials.

An issue that was raised is lobbying without complying. There is a grace period, yet statute prohibits lobbying without registration, there is a conflict.

Secretary Gorbea thanked the task force members for the discussion. Her office will research laws in other states to determine elements that may work in Rhode Island. These issues will be discussed at the next meeting scheduled for Wednesday, March 11 at 10 a.m. A request was made to get the material prior to the meeting in order to review. Secretary Gorbea said her office will try to get the information to the group prior to the meeting.

Secretary Gorbea adjourned the meeting.